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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,558	04/12/2006	Michael Schlick	10191/4209	5068
26646 7590 01/22/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
ALSOMIRI, ISAM A				
ART UNIT		PAPER NUMBER		
3662				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,558

Applicant(s)

SCHLICK ET AL.

Examiner

ISAM ALSOMIRI

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 13-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 13 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Brosche et al (DE 19963005 A1).

Referring to claims 13, 14, 16, 18-21, and 24, Brosche discloses in figures 2-8, a device for measuring a clearance distance and a speed of an object using radar pulses (see Abstract), comprising: a receiver-side mixer (18) that correlates received radar pulses with delayed transmitter-side radar pulses (11); a control device for specifying range gates within which radar pulses that are to be supplied to the mixer are continuously changeable increasingly and/or decreasingly with respect to their pulse delay (16); a switchover device for: for one of resetting and raising the delay to one of a current starting value and a new starting value; and an evaluating device for determining distance and speed values in response to an output signal from the mixer (see figures 2-4 and 8).

Referring to claim 15, wherein the evaluating device determines limits of the range gates based on the ascertained speed values (see abstract).

Referring to claim 17, wherein the evaluating device detects a moved object based on an increasing speed gradient/amplitude (see abstract).

Referring to claim 23. The device as recited in claim 13, wherein the evaluating device draws up estimated values for the speed measurements for expected crash situations (see Abstract)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brosche et al (DE 19963005 A1) in view of Mende (DE 19833327 A1)

Mende teaches an evaluating device draws up a clearance distance history from clearance distance measurements and detects object patterns based on the clearance distance history (see figures 3-5). It would have been obvious to further include the above clearance distance history and detect object patterns for better collision avoidance.

Response to Arguments

Applicant's arguments filed September 29, 2008 have been fully considered but they are not persuasive. Regarding claims 13-24, applicant argues that "It is respectfully submitted that Brosche does not disclose or even suggest the feature of a switchover device. Indeed, Brosche does not even discuss any type of switchover device", and "There is no mention of speed measurements associated with a switchover device"

(Remarks: page 2). In response: it is not clear what is meant by the applicant argument regarding the interpretation of the claimed "switchover device". The claims call for a "switchover device for at least one of..." for purpose of examination I examined the function of "one of resetting and raising the delay to one of a current starting value and a new starting value". Brosche discloses in figures 2 and 4 a device that include varying the delay by resetting a starting value according to figure 3, which reads on the claimed a switching device, since it does do the function described in the claim (see translation by applicant, page 3 line 15+ and page 10 line 20+). Further, regarding applicant's argument "There is no mention of speed measurements associated with a switchover device", this limitation is not in the claims; However, Brosche does measure the speed by taking a plurality of measurements at different distance ranges which associated with the switchover device". Therefore, the rejections are maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISAM ALSOMIRI whose telephone number is (571)272-6970. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 20, 2009

/Isam Alsomiri/
Primary Examiner, Art Unit 3662